REMARKS

In response to the Official Action of 23 April 2008, wherein the Examiner has required an election of a single invention, Applicants hereby elect to prosecute in the present application the claims of Group II, including claims 1-8, 12-13, and 17-18 drawn to a nucleic acid molecule encoding ppGFP2 and variants, and a cell comprising the nucleic acid molecule. Applicants respectfully traverse this requirement for reasons discussed below.

First, Applicants respectfully note that the present application is a '371 of PCT/RU03/00525 such that PCT unity of invention rules (rather than US restriction practice) apply. Under PCT Rule 13.2, unity of invention exists when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding "special technical features", i.e., those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. See PCT Rule 13.2.

In the present case, the Examiner considers that the only technical feature linking the respective groups of invention is that the proteins encoded by the recited nucleic acids exhibit green fluorescence and further considers that this technical feature does not define a contribution over the prior art because the prior art (e.g., Godwin, 1998) allegedly already teaches this technical feature. However, Applicants respectfully submit that the claimed invention is directed to specific nucleic acid molecules with structure defined by the recited SEQ ID NOs, which structure imparts

different properties to the proteins encoded thereby as compared with the known fluorescent proteins (see, e.g., specification at page 2, lines 18-22). In this respect, and since it appears that the Examiner may have been reading the terms "derivatives", "mimetics" and "mutants" of the formerly claimed nucleic acid molecule so broadly as to read on the prior art, Applicants have now amended the claims to limit the claimed nucleic acid molecules to those with the specific structure to encode the novel proteins. The prior art nucleic acid molecules respectfully do not have sufficient structural similarity with the claimed nucleic acid molecules to set forth even a *prima facie* case of obviousness based on structural similarity. See MPEP 2144.09.

In contrast, regarding the restriction of non-elected Group I, Applicants respectfully note that ppluGFP1 protein (SE ID NO: 1, 2) is structurally similar to the ppluGFP2 protein encoded by the elected nucleic acid molecule. It is isolated from the same source and has 97% identity with the ppluGFP2 protein at the amino acid level and 95% identity at the nucleotide level. Moreover, the proteins have a common property or activity (e.g., fluorescence).

Under these circumstances, the requirements for unity under PCT Rule 13.2 are met. See Annex B to Administrative Instructions Under the PCT under "Markush Practice" ("In this special situation, the requirement of a technical interrelationship and the same or corresponding special technical features as defined in Rule 13.2 shall be considered to be met when the alternatives are of a similar nature. (i) When the Markush grouping is for alternatives of chemical compounds, they shall be regarded as being of a similar nature where the following criteria are fulfilled: (A) all alternatives

have a common property or activity, and (B) (1) a common structure is present, i.e., a significant structural element is shared by all of the alternatives, or (B) (2) in cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.").

Applicants respectfully note that the amendments to the claims draw clear support from the specification as filed at, for example, page 5, last paragraph ("at least 70%" nucleotide sequence identity); page 11, first and second full paragraphs ("at least 80" amino acid identity); page 7, penultimate paragraph (regulatory regions); and page 8, last full paragraph (expression cassette as extrachromosomal element or integrated into genome).

In view of the above, Applicants respectfully submit that they have complied with all requirements of the aforementioned Official Action, and now respectfully request an early examination on the merits of at least the elected subject matter.

Respectfully submitted,

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